

REFERENCE TITLE: Arizona water settlements act; implementation

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HB 2835

Introduced by
Representative Weiers J

AN ACT

AMENDING SECTIONS 45-552 AND 45-554, ARIZONA REVISED STATUTES; AMENDING SECTION 45-611, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 1; AMENDING SECTIONS 45-2401 AND 45-2402, ARIZONA REVISED STATUTES; AMENDING SECTION 45-2423, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 4; AMENDING SECTION 45-2425, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 143, SECTION 5 AND CHAPTER 332, SECTION 1; AMENDING TITLE 45, CHAPTER 14, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; AMENDING SECTIONS 45-2601, 45-2611, 45-2622 AND 45-2626, ARIZONA REVISED STATUTES; RELATING TO WATERS; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-552, Arizona Revised Statutes, is amended to
3 read:

4 45-552. Transportation of groundwater withdrawn in McMullen
5 valley basin to an active management area:
6 definitions

7 A. A city that purchased land before January 1, 1988 in the McMullen
8 valley groundwater basin or a person who purchased land before January 1,
9 1988 that was in that basin and that was in the same county as an adjacent
10 initial active management area ~~may~~, either directly or in exchange for
11 central Arizona project water allocated for agricultural purposes, ~~MAY~~
12 transport groundwater from that land to an adjacent initial active management
13 area for use by any city, town, private water company or groundwater
14 replenishment district. A city, town, private water company or groundwater
15 replenishment district that purchases any land in the McMullen valley
16 groundwater basin from that city or land that was in that basin and that was
17 in the same county as an adjacent initial active management area from that
18 person ~~may~~, either directly or in exchange for central Arizona project water
19 allocated for agricultural purposes, ~~MAY~~ transport groundwater from that land
20 to the adjacent initial active management area only for use by a city, town,
21 private water company or groundwater replenishment district ~~OR THE ARIZONA~~
22 ~~WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491~~. The amount of
23 groundwater that may be transported away from the basin shall be determined
24 pursuant to subsection B of this section but shall not exceed:

25 1. In any year, two times the annual transportation allotment for the
26 land determined pursuant to subsection B of this section.

27 2. For any period of ten consecutive years computed in continuing
28 progressive series beginning in the year transportation of groundwater from
29 the land begins, ten times the annual transportation allotment for the land
30 determined pursuant to subsection B of this section.

31 3. Six million acre-feet in total.

32 B. The director shall determine the annual transportation allotment
33 for land that is subject to this section as follows:

34 1. Determine each farm or portion of a farm on that land.

35 2. For each such farm or portion of a farm, determine the historically
36 irrigated acres.

37 3. Multiply the sum of those historically irrigated acres for all such
38 farms or portions of farms by three acre-feet per acre.

39 C. In an initial active management area, for purposes of determining
40 whether to issue a certificate of assured water supply or to designate or
41 redesignate a city, town or private water company as having an assured water
42 supply, pursuant to section 45-576, based in whole or in part on groundwater
43 transported from the groundwater basin under this section, the director shall
44 consider only the amount of groundwater that can be withdrawn in the
45 groundwater basin from a depth to one thousand two hundred feet at the site

or sites of the proposed withdrawals at a rate that, when added to the existing rates of withdrawal in the area, is not expected to cause the groundwater table at the site or sites to decline more than an average of ten feet per year during the one hundred year evaluation period and does not exceed forty per cent of the groundwater that can be withdrawn in the groundwater basin, less the sum of the following amounts of groundwater in the groundwater basin:

1. The total amount on which the director has already based certificates or designations of assured water supply in an initial active management area.

2. The total amount transported to an initial active management area for other purposes.

D. For THE purposes of this section:

1. Land that is owned by a city, town, private water company or groundwater replenishment district includes land that is owned indirectly through a nonprofit corporation or other entity that is owned or controlled by the city, town, private water company or groundwater replenishment district.

~~3.~~ 2. "Historically irrigated acres" means land overlying an aquifer that was irrigated with groundwater from that aquifer before January 1, 1988.

~~2.~~ 3. "Person" means person as defined in section 45-402 and a person who purchased land before January 1, 1988 includes any successor in interest of that person if the successor acquires an interest in the land by means of either of the following:

(a) Inheritance, devise or intrafamily gift or conveyance directly or in trust.

(b) The reorganization of a closely held corporation, a partnership or a limited liability company that is and remains owned by or controlled by or for the benefit of individuals related to that person.

Sec. 2. Section 45-554, Arizona Revised Statutes, is amended to read:

45-554. Transportation of groundwater withdrawn in Harquahala irrigation non-expansion area to an initial active management area

A. A groundwater replenishment district established under title 48, chapter 27 may lease from an irrigation district located entirely within the Harquahala irrigation non-expansion area the use of one or more of the wells in the irrigation district to withdraw the groundwater that can be withdrawn from a depth to one thousand feet, at a rate that, when added to the existing rates of withdrawal in the area, does not cause the groundwater table at the site or sites to decline more than ten feet per year, for transportation to an initial active management area. The lease payments shall be made to the members of the irrigation district on a pro rata basis, per acre of land that is eligible to be irrigated under section 45-437, subsection B, minus the irrigation district's administrative costs. Wells leased under this subsection are exempt from well spacing requirements under section 45-559.

B. THIS STATE OR a political subdivision OF THIS STATE that owns land eligible to be irrigated under section 45-437, subsection B in the Harquahala irrigation non-expansion area may withdraw groundwater from the land for transportation to an initial active management area FOR ITS OWN USE OR USE BY THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2491 only:

1. If the groundwater is withdrawn:

(a) From a depth to one thousand feet at the site or sites of the proposed withdrawals.

(b) At a rate that, when added to the existing rate of withdrawals in the area, does not cause the groundwater table at the site or sites of the withdrawals to decline more than an average of ten feet per year during the one hundred year evaluation period.

2. In an amount either:

(a) Per acre of the eligible land, not to exceed:

(i) Six acre-feet in any year.

(ii) Thirty acre-feet for any period of ten consecutive years computed in continuing progressive series beginning in the year transportation of groundwater from the land begins.

(b) Established by the director, but only if the director determines that withdrawals in an amount greater than that permitted by subdivision (a) of this paragraph will not unreasonably increase damage to residents of surrounding land and other water users in the irrigation non-expansion area, or that one or more of the entities withdrawing the groundwater will mitigate the damage to the residents and other water users.

C. If this state or one or more political subdivisions of this state own eighty per cent or more of the land that is eligible to be irrigated under section 45-437, subsection B in the irrigation non-expansion area, each of the entities may withdraw groundwater from the eligible land it owns for transportation to an initial active management area:

1. From a depth to one thousand feet at the site or sites of withdrawals.

2. From a depth between one thousand and one thousand two hundred feet at the site or sites of the withdrawals only if the director determines either that the withdrawals will not unreasonably increase damage to residents of surrounding land or that one or more of the entities withdrawing the groundwater will mitigate the damage to the residents.

Sec. 3. Section 45-611, Arizona Revised Statutes, as amended by Laws 2005, chapter 143, section 1, is amended to read:

45-611. Groundwater withdrawal fee; amounts and purposes of fee; exception

A. Except as provided in subsection B of this section, the director shall levy and collect an annual groundwater withdrawal fee from each person withdrawing groundwater in the Prescott active management area or the person who owns the right to withdraw the groundwater, in an amount not to exceed five dollars per acre-foot of groundwater withdrawn and beneficially used.

1 The director shall levy and collect an annual withdrawal fee from each person
2 withdrawing water, other than stored water, from a well in the Santa Cruz
3 active management area or the person who owns the right to withdraw the
4 water, in an amount not to exceed five dollars per acre-foot of water, other
5 than stored water, that is withdrawn and beneficially used. For purposes of
6 this article, the annual withdrawal fee levied and collected in the Santa
7 Cruz active management area shall be considered a groundwater withdrawal fee.
8 The actual amount of the fee levied and collected by the director pursuant to
9 this subsection shall be set by the director as follows:

10 1. For administration and enforcement of this chapter, an amount not
11 less than fifty cents and not greater than one dollar per acre-foot per year.
12 The initial fee for administration and enforcement shall be levied as soon as
13 practicable after the active management area is established.

14 2. For augmentation of the water supply of the active management area,
15 conservation assistance to water users within the active management area and
16 monitoring and assessing water availability within the active management
17 area, an amount not greater than two dollars per acre-foot per year.

18 3. For purchasing and retiring grandfathered rights, an amount not
19 greater than two dollars per acre-foot per year. The initial fee for
20 purchasing and retiring grandfathered rights shall be levied in the first
21 year in which the director develops and implements a program for the purchase
22 and retirement of grandfathered rights as part of the management plan for the
23 active management area, but not earlier than January 1, 2006. The director
24 may not levy a fee under this paragraph on a district member of a groundwater
25 replenishment district that withdraws groundwater in the district for a
26 non-irrigation use in the district.

27 B. A person, other than an irrigation district, who withdraws
28 groundwater in an active management area from a non-exempt well for use
29 pursuant to an irrigation grandfathered right that is appurtenant to ten or
30 fewer irrigation acres and the person who owns the right to withdraw the
31 groundwater are exempt from the groundwater withdrawal fee requirements of
32 subsections A and C of this section for those withdrawals unless the
33 irrigation acres are part of an integrated farming operation.

34 C. Except as provided in section 45-411.01, subsection C and
35 subsection B of this section, the director shall levy and collect an annual
36 groundwater withdrawal fee from each person who withdraws groundwater in the
37 Tucson, Phoenix and Pinal active management areas or the person who owns the
38 right to withdraw the groundwater, in an amount of not more than five dollars
39 per acre-foot of groundwater withdrawn and beneficially used. The director
40 shall set the actual amount of the fee as follows:

41 1. In the Tucson and Phoenix active management areas, beginning in
42 2017, for administration and enforcement of this chapter, an amount of at
43 least fifty cents but not more than one dollar per acre-foot per year. In
44 the Pinal active management area, beginning in 2017, for administration and

1 enforcement of this chapter, an amount of not more than one dollar per
2 acre-foot per year.

3 2. Through 2016, for augmentation of the water supply of the active
4 management area, conservation assistance to water users within the active
5 management area and monitoring and assessing water availability within the
6 active management area, an amount of not more than fifty cents per acre-foot
7 per year, and after 2016, an amount of not more than two dollars per
8 acre-foot per year. If a permanent board of directors of an active
9 management area water district assumes office under section 48-4831, the fee
10 for augmentation under this paragraph shall not be levied in that active
11 management area.

12 3. In the Tucson and Phoenix active management areas, ~~through 2016,~~
13 for Arizona water banking purposes, the amount of two dollars fifty cents per
14 acre-foot per year. In the Pinal active management area, through 2016, for
15 Arizona water banking purposes, including replenishment under chapter 15,
16 article 3 of this title, the amount of two dollars fifty cents per acre-foot
17 per year and, beginning in 2017, for Arizona water banking purposes,
18 including replenishment under chapter 15, article 3 of this title, an amount
19 of not more than two dollars fifty cents per acre-foot per year.

20 4. For purchasing and retiring grandfathered rights, an amount of not
21 more than two dollars per acre-foot per year. The initial fee for purchasing
22 and retiring grandfathered rights shall be levied in the first year in which
23 the director develops and implements a program for the purchase and
24 retirement of grandfathered rights as part of the management plan for the
25 active management area, but not earlier than January 1, 2006. The director
26 may not levy a fee pursuant to this paragraph on a district member of a
27 groundwater replenishment district that withdraws groundwater in the district
28 for non-irrigation use in the district.

29 Sec. 4. Section 45-2401, Arizona Revised Statutes, is amended to read:
30 45-2401. Declaration of policy and purpose

31 A. The legislature finds that this state is currently and temporarily
32 underutilizing both the entitlement to Colorado river water confirmed to it
33 by the United States supreme court in Arizona v. California, 373 U.S. 546
34 (1963), and the central Arizona project, which has the capacity to divert
35 into this state a significant portion of this state's entitlement to Colorado
36 river water. The legislature further finds that, due to the low priority on
37 the Colorado river of the central Arizona project and other Arizona Colorado
38 river water users, the susceptibility of this state to future shortages of
39 water on the Colorado river is a threat to the general economy and welfare of
40 this state and its citizens.

41 B. The legislature further finds that water users within the central
42 Arizona project service area also rely on other surface water supplies, that
43 these supplies are susceptible to future shortages of water and that these
44 shortages are a threat to the general economy and welfare of this state and
45 its citizens.

C. The legislature further finds that future water needs in the states of California and Nevada could exceed the entitlements of those states to Colorado river water. Those future water needs could thereby affect the general economy and welfare of this state and its citizens because of the close economic ties among Arizona, California and Nevada.

D. The legislature further finds that Arizona water users could more efficiently manage, distribute and use available water resources through the storage of water supplies and through stored water lending arrangements, but that not all of these Arizona water users have the opportunities or resources needed to store water or enter into stored water lending arrangements.

E. The legislature further finds that for the purposes of this chapter diverting Colorado river water for storage off of the Colorado river system is a consumptive use of that water.

F. The legislature further finds that water banking is complimentary and compatible with existing water management efforts. The Arizona water banking authority will compliment and assist the activities of the central Arizona water conservation district in its mission to provide a dependable and cost-effective water supply.

G. The legislature therefore finds that it is in the best interest of the general economy and welfare of this state and its citizens to:

1. Use the central Arizona project to store otherwise unused Arizona entitlement to Colorado river water within this state to meet future water needs within this state.

2. Provide the opportunity to the states of California and Nevada to store currently unused Colorado river water in Arizona to meet future needs in those states.

3. Provide the opportunity to facilitate the storage of water and stored water lending arrangements by entities in Arizona that may not have the opportunities or resources needed to store water.

4. PROVIDE THE OPPORTUNITY TO FACILITATE THE SETTLEMENT OF INDIAN WATER RIGHTS CLAIMS BY DELIVERING AND STORING WATER.

H. The public policy and general purposes of this chapter are to:

1. Increase utilization of Arizona's Colorado river entitlement that was confirmed to Arizona by the United States supreme court in article ii(b)(1), (2) and (6) of the decree entered at Arizona v. California, 376 U.S. 340 (1964), and that would otherwise be unused in Arizona, by delivering that water into this state through the central Arizona project aqueducts.

2. Store water brought into this state through the central Arizona project to protect Arizona municipal and industrial water users against future water shortages on the Colorado river and disruptions of operation of the central Arizona project.

3. Store water brought into this state through the central Arizona project to fulfill the water management objectives of this state set forth in chapter 2 of this title.

4. Provide the opportunity for storing water brought into this state through the central Arizona project to be available to implement the settlement of water right claims by Indian communities within Arizona.

5. Provide the opportunity to authorized agencies in the states of California and Nevada to store otherwise unused Colorado river water in Arizona to assist those states in meeting future water needs.

6. Provide the opportunity to facilitate the storage of water and stored water lending arrangements by entities in Arizona that may not have the opportunities or resources needed to store water.

Sec. 5. Section 45-2402, Arizona Revised Statutes, is amended to read:

45-2402. Definitions

Unless the context otherwise requires, the terms defined in sections 45-101, 45-402 and 45-802.01 have the same meaning in this chapter and for purposes of this chapter:

1. "Authority" means the Arizona water banking authority.

2. "Banking fund" means the Arizona water banking fund.

3. "Central Arizona water conservation district" or "CAWCD" means the multi-county water conservation district established under title 48, chapter 22.

4. "Commission" means the Arizona water banking authority commission.

5. "Decree" means the decree entered by the United States supreme court in Arizona v. California, 376 U.S. 340 (1964).

6. "INDIAN FIRING" MEANS MEASURES TAKEN TO ENSURE THAT CENTRAL ARIZONA PROJECT NON-INDIAN AGRICULTURAL PRIORITY WATER THAT IS MADE AVAILABLE TO INDIAN TRIBES PURSUANT TO PUBLIC LAW 108-451 MAY BE DELIVERED DURING WATER SHORTAGES IN THE SAME MANNER THAT WATER WITH A MUNICIPAL AND INDUSTRIAL PRIORITY IN THE CENTRAL ARIZONA PROJECT SYSTEM IS DELIVERED DURING WATER SHORTAGES.

~~6.~~ 7. "Water banking services" means services provided by the authority to persons and Indian communities in this state to facilitate for those persons and Indian communities storage of water and stored water lending arrangements. **WATER BANKING SERVICES INCLUDE THE DIRECT DELIVERY OF WATER TO INDIAN COMMUNITIES IN THIS STATE IN REPLACEMENT OF OR SUPPLEMENTAL TO THE ACCRUAL OF LONG-TERM STORAGE CREDITS PURSUANT TO ARTICLE 5 OF THIS CHAPTER.** Water banking services include only arrangements by which water will be made available for use in this state. Water banking services do not include interstate water banking undertaken by the authority pursuant to article 4 of this chapter. Water banking services may include:

(a) Storage of water.

(b) Obtaining water storage permits.

(c) Accruing, exchanging and assigning long-term storage credits.

(d) Lending and obtaining repayment of long-term storage credits.

~~7.~~ 8. "Water banking services agreement" means an agreement entered into between the authority and a person or Indian community in this state

1 under which the authority will provide water banking services to that person
2 or Indian community.

3 Sec. 6. Section 45-2423, Arizona Revised Statutes, as amended by Laws
4 2005, chapter 143, section 4, is amended to read:

5 45-2423. Powers and duties of authority

6 A. The authority, acting through its commission, shall:

7 1. Administer the Arizona water banking fund in accordance with this
8 chapter.

9 2. Coordinate its staffing needs with the director and CAWCD.

10 3. Coordinate the storage of water and distribution and extinguishment
11 of long-term storage credits with the director in accordance with this
12 chapter and the water management objectives set forth in chapter 2 of this
13 title.

14 4. Coordinate with CAWCD for the purchase, delivery and storage of
15 Colorado river water delivered through the central Arizona project in
16 accordance with this chapter.

17 5. Coordinate and confer with state agencies, municipal corporations,
18 special districts, authorities, other political subdivisions, private
19 entities, Indian communities and the United States on matters within their
20 jurisdiction relating to the policy and purposes of this chapter.

21 6. Determine, on an annual basis, the quantity of Colorado river
22 water, SURFACE WATER OTHER THAN COLORADO RIVER WATER AND EFFLUENT to be
23 stored by the authority and where that storage will occur.

24 7. Account for, hold and distribute or extinguish long-term storage
25 credits in accordance with this chapter.

26 8. Comply with all aspects of chapter 3.1 of this title.

27 9. Perform the authority's replenishment responsibilities under
28 chapter 15, article 3 of this title with monies appropriated from the state
29 general fund by the legislature for that purpose and to the extent that
30 monies appropriated by the legislature for that purpose are not available,
31 with monies collected in the Pinal active management area pursuant to section
32 45-611, subsection C, paragraph 3.

33 10. CARRY OUT THE OBLIGATIONS OF THIS STATE UNDER SECTION 105 OF PUBLIC
34 LAW 108-451 AS AGENT FOR THIS STATE, INCLUDING THE DIRECT DELIVERY OF WATER
35 TO INDIAN COMMUNITIES IN THIS STATE AND THE LEASING OF NON-INDIAN
36 AGRICULTURAL PRIORITY AND INDIAN PRIORITY CENTRAL ARIZONA PROJECT WATER AS
37 PRESCRIBED BY ARTICLE 5 OF THIS CHAPTER.

38 ~~10-~~ 11. Adopt an official seal for the authentication of its records,
39 decisions and resolutions.

40 ~~11-~~ 12. Keep the minutes of its meetings and all records, reports and
41 other information relating to its work and programs in permanent form,
42 systematically indexed and filed.

43 B. The authority, acting through its commission, may:

44 1. Apply for and hold water storage permits.

1 2. Accrue, exchange, assign, lend and hold long-term storage credits
2 in accordance with this chapter.

3 3. Exchange Colorado river water for any type of water in accordance
4 with chapter 4 of this title.

5 4. Enter into water banking services agreements.

6 5. Charge fees for water banking services.

7 6. Apply for and hold any water quality permit required for water
8 storage by the department of environmental quality under title 49, chapter 2,
9 article 3 or by federal law.

10 7. Make and execute all contracts, including intergovernmental
11 agreements pursuant to title 11, chapter 7, article 3, that shall be signed
12 by the chairperson, or in the chairperson's absence the vice-chairperson, and
13 attested by the secretary, necessary to:

14 (a) Obtain for storage Colorado river water delivered through the
15 central Arizona project. Agreements by which the authority obtains Colorado
16 river water are exempt from the requirements of title 41, chapter 23.

17 (b) Obtain effluent **OR SURFACE WATER OTHER THAN COLORADO RIVER WATER**
18 for storage but only after the authority has stored all available excess
19 Central Arizona project water or when central Arizona project water is
20 otherwise unavailable or undeliverable.

21 (c) Affiliate water storage permits held by the authority with storage
22 facility permits.

23 (d) Store ~~Colorado river~~ water **FOR PURPOSES OF THIS CHAPTER** at
24 permitted storage facilities.

25 (e) Distribute long-term storage credits earned by the authority to
26 make water available to municipal and industrial users of Colorado river
27 water in this state that are inside or outside of the CAWCD service area, in
28 accordance with the provisions of this chapter.

29 (f) Store Colorado river water in Arizona on behalf of appropriately
30 authorized agencies in California and Nevada.

31 (g) Cause a decrease in Arizona diversions from the Colorado river,
32 ensuring that Arizona will use less than its full entitlement to Colorado
33 river water in years in which California and Nevada agencies are
34 contractually authorized to call on the water stored on their behalf by the
35 authority.

36 (h) Distribute long-term storage credits earned by the authority on
37 behalf of agencies in California and Nevada to Colorado river water users in
38 Arizona to use in place of Colorado river water that would have otherwise
39 been used by those Arizona users.

40 (i) Replenish water pursuant to chapter 15, article 3 of this title,
41 including entering into an intergovernmental agreement with the Gila river
42 Indian community pursuant to section 45-2624.

43 (j) **DISTRIBUTE LONG-TERM STORAGE CREDITS EARNED BY THE AUTHORITY TO**
44 **MAKE WATER AVAILABLE TO INDIAN COMMUNITIES IN THIS STATE FOR INDIAN FIRING**
45 **MEASURES PURSUANT TO ARTICLE 5 OF THIS CHAPTER.**

1 8. Sue and be sued.

2 9. Perform all other acts necessary for the authority to carry out its
3 purposes, powers and duties in accordance with this chapter.

4 10. Submit a request for a general fund appropriation to the
5 legislature each year. A request shall be accompanied by a budget detailing
6 how the appropriation would be used and justifying the need for the
7 appropriation.

8 11. Form temporary committees as deemed necessary by the authority to
9 provide the authority with advice on issues identified by the authority.
10 Advisory committees may consist of members of the public selected by the
11 authority, members of the authority and authority staff.

12 12. Purchase long-term storage credits accrued by an Indian community
13 pursuant to section 45-841.01, provided such long-term storage credits are
14 distributed or extinguished in accordance with the rules of operation
15 specified in section 45-2457 for the funds used by the authority to purchase
16 the credits.

17 Sec. 7. Section 45-2425, Arizona Revised Statutes, as amended by Laws
18 2005, chapter 143, section 5 and chapter 332, section 1, is amended to read:

19 45-2425. Arizona water banking fund

20 A. The Arizona water banking fund is established and shall include
21 subaccounts based on funding sources. The authority shall administer the
22 banking fund in accordance with this chapter.

23 B. The banking fund consists of all of the following:

24 1. Monies appropriated from the state general fund by the legislature
25 for water banking purposes other than replenishment under chapter 15, article
26 3 of this title.

27 2. Monies appropriated from the state general fund by the legislature
28 for replenishment under chapter 15, article 3 of this title.

29 3. Reimbursement for the distribution of long-term storage credits,
30 collected by the authority in accordance with section 45-2457, subsection B,
31 paragraph 2.

32 4. Monies paid to the authority by the recipients of in lieu water at
33 a groundwater savings facility, in accordance with section 45-2455,
34 subsection C.

35 5. Monies collected in accordance with section 45-611, subsection C,
36 paragraph 3.

37 6. Monies deposited in the banking fund in accordance with section
38 48-3715.03, subsection B.

39 7. Monies paid to the authority by agencies that have entered into
40 interstate water banking agreements with the authority in accordance with
41 section 45-2471. All monies received through an interstate water banking
42 agreement with the state of Nevada that are not used to purchase or store
43 water or otherwise fulfill contractual obligations with the state of Nevada
44 are subject to legislative appropriation.

8. Monies paid to the authority by persons and Indian communities in this state that have entered into water banking services agreements with the authority in accordance with section 45-2458.

C. In addition to the monies prescribed in this section, the authority may accept any gifts, grants or donations and deposit those monies in the banking fund.

D. Monies in the banking fund are exempt from ~~lapsing under~~ THE PROVISIONS OF section 35-190 RELATING TO LAPSING OF APPROPRIATIONS. On notice from the authority, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the banking fund. The authority may invest the monies paid to the authority in accordance with section 45-2471, ~~Arizona Revised Statutes~~, with the state treasurer pursuant to section 35-326, ~~Arizona Revised Statutes~~.

E. The authority may use the banking fund to pay all reasonable expenses incurred in carrying out its duties and responsibilities in accordance with this chapter.

F. THE AUTHORITY SHALL ESTABLISH A RESERVE SUBACCOUNT IN THE FUND FOR THE DEPOSIT OF MONIES TO BE USED FOR THE PURPOSES OF ARTICLE 5 OF THIS CHAPTER.

Sec. 8. Title 45, chapter 14, Arizona Revised Statutes, is amended by adding article 5, to read:

ARTICLE 5. INDIAN FIRING MEASURES

45-2491. State commitments to firm Indian settlement water

A. THE AUTHORITY SHALL ACT AS AGENT FOR THIS STATE IN MEETING THIS STATE'S OBLIGATION TO DELIVER WATER IN TIMES OF SHORTAGE PURSUANT TO PUBLIC LAW 108-451, FULFILLING THE REQUIREMENTS OF SECTIONS 105, 207(c)(I)(ii) AND 302(b)(8), AND THE INDIAN FIRING MEASURES ESTABLISHED PURSUANT TO THIS ARTICLE. IN CARRYING OUT THIS OBLIGATION THE AUTHORITY MAY:

1. STORE WATER AT PERMITTED RECHARGE FACILITIES FOR THE PURPOSE OF INDIAN FIRING.

2. ENTER INTO CONTRACTS OR AGREEMENTS WITH THE UNITED STATES AND INDIAN COMMUNITIES FOR STORAGE, RECOVERY OR DIRECT DELIVERY OF WATER FOR INDIAN FIRING.

3. ENTER INTO LEASING AGREEMENTS WITH ONE OR MORE INDIAN COMMUNITIES IN PARTNERSHIP WITH OTHER ENTITIES FOR NON-INDIAN AGRICULTURAL PRIORITY OR INDIAN PRIORITY CENTRAL ARIZONA PROJECT WATER.

4. ENTER INTO CONTRACTS FOR THE USE OF WATER SOURCES INCLUDING COLORADO RIVER WATER, SURFACE WATER OTHER THAN COLORADO RIVER WATER AND EFFLUENT.

5. ENTER INTO CONTRACTS WITH ELIGIBLE ENTITIES FOR THE USE OF IMPORTED GROUNDWATER FROM ALLOWABLE GROUNDWATER BASINS PURSUANT TO SECTIONS 45-552, 45-553 AND 45-554 FOR THE PURPOSES OF INDIAN FIRING.

1 6. ENTER INTO AGREEMENTS WITH A MULTI-COUNTY WATER CONSERVATION
2 DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22 FOR DELIVERY OF WATER
3 TO INDIAN COMMUNITIES.

4 7. SUBJECT TO PERIODIC REVIEW OF PROGRESS TOWARD MEETING THIS STATE'S
5 INDIAN FIRING OBLIGATION, ALLOW FOR THE USE OF EXISTING LONG-TERM STORAGE
6 CREDITS DEVELOPED FROM WITHDRAWAL FEES COLLECTED PURSUANT TO SECTION 45-611,
7 SUBSECTION C, PARAGRAPH 3.

8 8. TRANSFER LONG-TERM STORAGE CREDITS TO A MULTI-COUNTY WATER
9 CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22 FOR
10 RECOVERY AND SUBSEQUENT DELIVERY TO INDIAN COMMUNITIES IN TIMES OF SHORTAGE.

11 9. ENTER INTO AGREEMENTS FOR THE RECOVERY OF LONG-TERM STORAGE CREDITS
12 FOR PURPOSES OF INDIAN FIRING.

13 B. INDIAN FIRING MEASURES ESTABLISHED PURSUANT TO THIS ARTICLE SHALL
14 INCLUDE FUNDING FROM THE FOLLOWING SOURCES:

15 1. LEGISLATIVE APPROPRIATIONS PROVIDED FOR INDIAN FIRING ON AN ANNUAL
16 BASIS TO CARRY OUT INDIAN FIRING MEASURES.

17 2. TO THE EXTENT NECESSARY TO CARRY OUT INDIAN FIRING MEASURES AFTER
18 EXPENDITURE OF LEGISLATIVE APPROPRIATIONS, THE AUTHORITY MAY USE WITHDRAWAL
19 FEES COLLECTED FROM THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREA
20 WATER MANAGEMENT ACCOUNTS.

21 Sec. 9. Section 45-2601, Arizona Revised Statutes, is amended to read:

22 45-2601. Definitions

23 Unless the context otherwise requires, the terms defined in sections
24 45-402 and 45-802.01 have the same meaning in this chapter and for the
25 purposes of this chapter:

26 1. "Central protection zone" means the central protection zone
27 established under section 45-2602.

28 2. "Community" means the Gila river Indian community, a government
29 composed of members of the Pima tribe and the Maricopa tribe and organized
30 under section 16 of the act of June 18, 1934 (25 United States Code section
31 476).

32 3. "Dam" has the meaning prescribed in section 45-1201 on January 1,
33 2005.

34 4. "Designed storage capacity" means the storage capacity in acre-feet
35 of a reservoir at the elevation of the lowest spillway in the dam impounding
36 water in the reservoir, as the dam was originally constructed.

37 5. "Eastern protection zone" means the eastern protection zone north
38 or the eastern protection zone south.

39 6. "Eastern protection zone north" means the eastern protection zone
40 north established under section 45-2602, subsection A.

41 7. "Eastern protection zone south" means the eastern protection zone
42 south established under section 45-2602, subsection A.

43 8. "Gila river maintenance area" means the Gila river maintenance area
44 established under section 45-2603, subsection A.

1 9. "Gila river maintenance area impact zone" means the Gila river
2 maintenance area impact zone established under section 45-2603, subsection B.

3 10. "Globe equity decree" means the decree dated June 29, 1935 and
4 entered in United States of America v. Gila valley irrigation district, Globe
5 equity No. 59, et al. by the United States district court for the district of
6 Arizona and includes all court orders and decisions supplemental to that
7 decree.

8 11. "Industrial use" means all of the following:

9 (a) A nonirrigation use of water commenced after December 31, 2002
10 that is not supplied by a municipal provider, including animal industry use
11 and expanded animal industry use.

12 (b) A use of groundwater commenced before January 1, 2003 by a holder
13 of a type 1 nonirrigation grandfathered right in existence on December 31,
14 2002, other than a type 1 nonirrigation grandfathered right held by a
15 municipal provider and other than a use under another groundwater right or
16 permit, in excess of the amount allowed under the type 1 nonirrigation
17 grandfathered right.

18 (c) A use of groundwater commenced before January 1, 2003 by a holder
19 of a type 2 nonirrigation grandfathered right in existence on December 31,
20 2002, other than a type 2 nonirrigation grandfathered right held by a
21 municipal provider, in excess of the amount allowed under the right and for
22 which the holder has no other groundwater right.

23 (d) A use of groundwater commenced before January 1, 2003 by a holder
24 of a general industrial use permit issued under section 45-515 and in
25 existence on December 31, 2002, other than a use under another groundwater
26 right or permit, in excess of the amount allowed under the general industrial
27 use permit.

28 12. "Irrigation use" means the use of water on two or more acres of
29 land to produce plants or parts of plants for sale or human consumption, or
30 for use as feed for livestock, range livestock or poultry, as defined in
31 section 3-1201.

32 13. "Municipal acre" means the acre or acres of land within a
33 protection zone, on which water pumped from within a protection zone is
34 supplied by a municipal provider, on which water use was first commenced
35 after December 31, 2002 and for which the water use is reported pursuant to
36 section 45-632, 45-875.01 or 45-2602.

37 14. "Municipal provider" means a city, town, private water company or
38 ~~irrigation district~~ SPECIAL TAXING DISTRICT ESTABLISHED PURSUANT TO TITLE 48
39 that supplies water for nonirrigation use.

40 15. "Municipal use" means a nonirrigation use of water commenced after
41 December 31, 2002 and supplied by a municipal provider on municipal acres.

42 16. "Nonirrigation use" means a use of water withdrawn from a well,
43 other than an irrigation use.

44 17. "Reservation" means the Gila river Indian community reservation.

18. "Settlement agreement" means the agreement entitled the "Gila river Indian community water rights settlement agreement", dated February 4, 2003 between the community, this state and other parties, as amended before ~~the effective date of this section~~ DECEMBER 21, 2005, a copy of which is on file in the department.

19. "Southside protection zones" means the eastern protection zone north, the eastern protection zone south, the western municipal protection zone, the western municipal and industrial protection zone and the central protection zone.

20. "Stockpond" means a pond that has a capacity of not more than fifteen acre-feet and that is used solely for watering livestock or wildlife. Stockpond does not include a pond used primarily for fishing or for the culturing of fish.

21. "Stored water" means water that has been stored or saved underground pursuant to a storage permit issued under chapter 3.1 of this title.

22. "Underground water" means water, other than stored water, withdrawn from a well.

23. "Water company" means either of the following:

(a) A private water company that as of January 1, 2000 was regulated as a public service corporation by the Arizona corporation commission and was withdrawing underground water from lands now within the eastern protection zone north.

(b) Any successor of a private water company described in subdivision (a) of this paragraph.

24. "Western municipal and industrial protection zone" means the western municipal and industrial protection zone established under section 45-2602, subsection A.

25. "Western municipal protection zone" means the western municipal protection zone established under section 45-2602, subsection A.

26. "Western protection zones" means the western municipal protection zone and the western municipal and industrial protection zone.

Sec. 10. Section 45-2611, Arizona Revised Statutes, is amended to read:

45-2611. Transportation of underground water and stored water away from an eastern protection zone or western protection zone prohibited; exceptions

A. Except as provided in subsection B of this section, beginning on the effective date of this section, underground water or stored water withdrawn in an eastern protection zone or a western protection zone may not be transported away from the protection zone in which the water was withdrawn if the transportation is for a nonirrigation use.

B. Subsection A of this section does not apply to any of the following:

1 1. The transportation of underground water or stored water away from
2 an eastern protection zone or a western protection zone for a nonirrigation
3 use in an annual amount that does not exceed the highest annual volume of
4 underground water or stored water transported away from the same protection
5 zone for that use during calendar years 1999 through 2001.

6 2. The transportation of underground water or stored water away from
7 an eastern protection zone or a western protection zone for a nonirrigation
8 use if the person transporting the underground water or stored water
9 replenishes the water as provided in section 45-2625 within twenty-four
10 months after the end of the calendar year in which the transportation occurs.

11 3. The transportation of underground water or stored water away from
12 an eastern protection zone or a western protection zone for a nonirrigation
13 use if the person transporting the underground water or stored water replaces
14 the water with an equivalent amount of water imported into that protection
15 zone within the same calendar year in which the transportation occurs.

16 4. The transportation of stored water away from an eastern protection
17 zone or a western protection zone if the stored water was originally stored
18 in the protection zone from which the water was recovered.

19 5. The transportation of underground water or stored water between the
20 eastern protection zone north and the eastern protection zone south.

21 6. The transportation of underground water or stored water between the
22 western municipal and industrial protection zone and the western municipal
23 protection zone if the water is transported for a municipal use on municipal
24 acres.

25 7. Through 2023, the transportation of underground water and stored
26 water withdrawn by a water company within an eastern protection zone and
27 transported by the water company for municipal uses outside of the eastern
28 protection zones. For the purposes of this paragraph, stored water does not
29 include any water stored within an eastern protection zone and recovered
30 within that protection zone.

31 8. Beginning with calendar year 2024, the annual transportation of up
32 to one thousand two hundred seventy-five acre-feet of underground water and
33 stored water withdrawn by a water company within ~~an~~ THE eastern protection
34 ~~zone~~ ZONES and transported by the water company for municipal uses outside of
35 the eastern protection zones. For the purposes of this paragraph, stored
36 water does not include any water stored within an eastern protection zone and
37 recovered within that protection zone.

38 Sec. 11. Section 45-2622, Arizona Revised Statutes, is amended to
39 read:

40 45-2622. Annual southside replenishment obligations

41 A. No later than October 1 of each calendar year following the year in
42 which this section becomes effective, the director shall calculate the
43 southside replenishment obligations for the preceding calendar year and
44 notify the authority of the amount of the obligations.

1 B. The director shall calculate the southside replenishment
2 obligations for a calendar year as follows:

3 1. The director shall calculate the municipal and industrial
4 replenishment obligation for the western municipal and industrial protection
5 zone for the year as follows:

6 (a) Determine the total amount of underground water and stored water
7 withdrawn during the year from within the western municipal and industrial
8 protection zone for municipal uses within a western protection zone and the
9 total amount of underground water and stored water withdrawn during the year
10 from within the western municipal and industrial protection zone for
11 industrial uses within the western municipal and industrial protection zone,
12 as reported to the director under sections 45-632, 45-875.01 and 45-2602.
13 For the purposes of this subdivision, stored water does not include any water
14 stored at a storage facility located within the western municipal and
15 industrial protection zone ~~or any water stored and recovered on an annual~~
16 ~~basis pursuant to section 45-851.01.~~

17 (b) Divide the volume of water determined in subdivision (a) of this
18 paragraph by the total number of municipal acres and industrial acres within
19 the western protection zones on which the water was used during the year.

20 (c) Multiply the total number of municipal acres and industrial acres
21 within the western protection zones on which the water determined in
22 subdivision (a) of this paragraph was used during the year by two acre-feet.

23 (d) Subtract the product in subdivision (c) of this paragraph from the
24 quotient in subdivision (b) of this paragraph. The result is the municipal
25 and industrial replenishment obligation for the western municipal and
26 industrial protection zone for the year, except that if the result is less
27 than zero, there is no replenishment obligation.

28 2. The director shall calculate the municipal replenishment obligation
29 for the western municipal protection zone for the year as follows:

30 (a) Determine the total amount of underground water and stored water
31 withdrawn during the year from within the western municipal protection zone
32 for municipal uses within a western protection zone, as reported to the
33 director under sections 45-632, 45-875.01 and 45-2602. For the purposes of
34 this subdivision, stored water does not include any water stored at a storage
35 facility located within the western municipal protection zone ~~or any water~~
36 ~~stored and recovered on an annual basis pursuant to section 45-851.01.~~

37 (b) Divide the volume of water determined in subdivision (a) of this
38 paragraph by the total number of municipal acres within the western
39 protection zones on which the water was used during the year.

40 (c) Multiply the total number of municipal acres within the western
41 protection zones on which the water determined in subdivision (a) of this
42 paragraph was used during the year by two acre-feet.

43 (d) Subtract the product in subdivision (c) of this paragraph from the
44 quotient in subdivision (b) of this paragraph. The result is the municipal
45 replenishment obligation for the western municipal protection zone for the

1 year, except that if the result is less than zero, there is no replenishment
2 obligation.

3 3. The director shall calculate the municipal and industrial
4 replenishment obligation for the eastern protection zone north for the year
5 as follows:

6 (a) Determine the total amount of underground water and stored water
7 withdrawn during the year from within the eastern protection zone north for
8 municipal uses and industrial uses within an eastern protection zone, as
9 reported to the director under sections 45-632, 45-875.01 and 45-2602. For
10 the purposes of this subdivision, stored water does not include any water
11 stored at a storage facility located within the eastern protection zone north
12 ~~or any water stored and recovered on an annual basis pursuant to section~~
13 ~~45-851.01.~~

14 (b) Determine the total amount of underground water and stored water
15 withdrawn during the year by a water company from within the eastern
16 protection zone south and used for municipal uses within the eastern
17 protection zone north. For the purposes of this subdivision, stored water
18 does not include any water stored at a storage facility located within the
19 eastern protection zone south ~~or any water stored and recovered on an annual~~
20 ~~basis pursuant to section 45-851.01.~~

21 (c) Add the volumes of water in subdivisions (a) and (b) of this
22 paragraph and then divide the sum by the total number of municipal acres and
23 industrial acres within the eastern protection zones on which the water was
24 used during the year.

25 (d) Multiply the total number of municipal acres and industrial acres
26 within the eastern protection zones on which the water determined in
27 subdivision (c) of this paragraph was used during the year by 2.33 acre-feet.

28 (e) Subtract the product in subdivision (d) of this paragraph from the
29 quotient in subdivision (c) of this paragraph. The result is the municipal
30 and industrial replenishment obligation for the eastern protection zone north
31 for the year, except that if the result is less than zero, there is no
32 replenishment obligation.

33 4. The director shall calculate the municipal and industrial
34 replenishment obligation for the eastern protection zone south for the year
35 as follows:

36 (a) Determine the total amount of underground water and stored water
37 withdrawn during the year from within the eastern protection zone south for
38 municipal uses and industrial uses within an eastern protection zone, as
39 reported to the director under sections 45-632, 45-875.01 and 45-2602. For
40 the purposes of this subdivision, stored water does not include any water
41 stored at a storage facility located within the eastern protection zone south
42 ~~or any water stored and recovered on an annual basis pursuant to section~~
43 ~~45-851.01.~~

1 (b) Determine the total amount of underground water and stored water
2 withdrawn during the year by a water company from within the eastern
3 protection zone south and used for municipal uses within the eastern
4 protection zone north. For the purposes of this subdivision, stored water
5 does not include any water stored at a storage facility located within the
6 eastern protection zone south ~~or any water stored and recovered on an annual~~
7 ~~basis pursuant to section 45-851.01.~~

8 (c) Subtract the volume in subdivision (b) of this paragraph from the
9 volume in subdivision (a) of this paragraph and then divide the difference by
10 the total number of municipal acres and industrial acres within the eastern
11 protection zones on which the water determined in subdivision (a) of this
12 paragraph other than water determined in subdivision (b) of this paragraph
13 was used during the year.

14 (d) Multiply the total number of municipal acres and industrial acres
15 within the eastern protection zones on which the water determined in
16 subdivision (a) of this paragraph other than water determined in subdivision
17 (b) of this paragraph was used during the year by 2.33 acre-feet.

18 (e) Subtract the product in subdivision (d) of this paragraph from the
19 quotient in subdivision (c) of this paragraph. The result is the municipal
20 and industrial replenishment obligation for the eastern protection zone south
21 for the year, except that if the result is less than zero, there is no
22 replenishment obligation.

23 5. The director shall calculate the irrigation replenishment
24 obligation for the western municipal and industrial protection zone and the
25 western municipal protection zone for the year as follows:

26 (a) Determine the total amount of underground water and stored water
27 withdrawn during the year from within the western municipal and industrial
28 protection zone and the western municipal protection zone and used for the
29 irrigation of lands within those protection zones, as reported to the
30 director on the annual reports required by sections 45-632, 45-875.01 and
31 45-2602. For the purposes of this subdivision, stored water does not include
32 any water stored at a storage facility located within the western municipal
33 and industrial protection zone or the western municipal protection zone.

34 (b) For each farm within the western municipal and industrial
35 protection zone and the western municipal protection zone for which an annual
36 report is filed under section 45-632, 45-875.01 or 45-2602 for the year,
37 calculate the maximum amount of groundwater that may be used on the farm for
38 irrigation purposes during the year without causing the flexibility account
39 for the farm to be in arrears in excess of the amount allowed under section
40 45-467, subsection I. In making this calculation, the director shall use the
41 irrigation water duty established for the farm for the third management
42 period pursuant to section 45-566, subsection A, paragraph 1.

43 (c) Add together the amount calculated for each farm under
44 subdivision (b) of this paragraph.

1 (d) Subtract the amount in subdivision (c) of this paragraph from the
2 amount in subdivision (a) of this paragraph. The difference is the
3 irrigation replenishment obligation for the year for the western municipal
4 and industrial protection zone and the western municipal protection zone,
5 except that if the difference is less than zero, there is no replenishment
6 obligation.

7 6. The director shall calculate the irrigation replenishment
8 obligation for the eastern protection zone north and the eastern protection
9 zone south for the year as follows:

10 (a) Determine the total amount of underground water and stored water
11 withdrawn during the year from within the eastern protection zone north and
12 the eastern protection zone south and used for the irrigation of lands within
13 those protection zones, as reported to the director on the annual reports
14 required by section 45-632, section 45-875.01, subsection D and section
15 45-2602. For the purposes of this subdivision, stored water does not include
16 any water stored at a storage facility located within the eastern protection
17 zone north or the eastern protection zone south.

18 (b) For each farm within the eastern protection zone north and the
19 eastern protection zone south for which an annual report is filed under
20 section 45-632, 45-875.01 or 45-2602 for the year, calculate the maximum
21 amount of groundwater that may be used on the farm for irrigation purposes
22 during the year without causing the flexibility account for the farm to be in
23 arrears in excess of the amount allowed under section 45-467, subsection
24 I. In making this calculation, the director shall use the irrigation water
25 duty established for the farm for the third management period pursuant to
26 section 45-566, subsection A, paragraph 1.

27 (c) Add together the amount calculated for each farm under
28 subdivision (b) of this paragraph.

29 (d) Subtract the amount in subdivision (c) of this paragraph from the
30 amount in subdivision (a) of this paragraph. The difference is the
31 irrigation replenishment obligation for the year for the eastern protection
32 zone north and the eastern protection zone south, except that if the
33 difference is less than zero, there is no replenishment obligation.

34 7. Through 2023, the director shall calculate the water company
35 replenishment obligation for the year by determining the amount of
36 underground water and stored water withdrawn during the year from within ~~an~~
37 ~~THE~~ eastern protection ~~zone~~ ZONES by a water company and transported for
38 municipal uses outside of the eastern protection zones and then subtracting
39 from that amount one thousand two hundred seventy-five acre-feet. The
40 difference is the water company replenishment obligation for the year, except
41 that if the difference is less than zero, there is no replenishment
42 obligation. For the purposes of this paragraph, stored water does not
43 include any water stored at a storage facility located within an eastern
44 protection zone and recovered within that protection zone.

1 Sec. 12. Section 45-2626, Arizona Revised Statutes, is amended to
2 read:

3 45-2626. Individual replenishment obligations of persons using
4 underground water or stored water within an eastern
5 protection zone or a western protection zone for
6 industrial use; enforcement action; notice

7 A. If there is a municipal and industrial replenishment obligation for
8 the eastern protection zone north for any year, as calculated under section
9 45-2622, subsection B, any person who withdraws underground water or stored
10 water from within that protection zone during the year for an industrial use
11 within an eastern protection zone in an amount that exceeds a volume
12 calculated by multiplying the number of industrial acres associated with the
13 industrial use by three and one-half acre-feet shall have an individual
14 replenishment obligation for that year in the amount of the excess, except
15 that if the industrial use was commenced prior to January 1, 2003, the
16 replenishment obligation shall be limited to the volume of groundwater
17 withdrawn in excess of the amount allowed under the industrial user's type 1
18 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right
19 or general industrial use permit issued under section 45-515. For the
20 purposes of this subsection, stored water does not include any water stored
21 at a storage facility located within the eastern protection zone north ~~or any~~
22 ~~water stored and recovered on an annual basis pursuant to section 45-851.01.~~

23 B. If there is a municipal and industrial replenishment obligation for
24 the eastern protection zone south for any year, as calculated under section
25 45-2622, subsection B, any person who withdraws underground water or stored
26 water from within that protection zone during the year for an industrial use
27 within an eastern protection zone in an amount that exceeds a volume
28 calculated by multiplying the number of industrial acres associated with the
29 industrial use by three and one-half acre-feet shall have an individual
30 replenishment obligation for that year in the amount of the excess, except
31 that if the industrial use was commenced prior to January 1, 2003, the
32 replenishment obligation shall be limited to the volume of groundwater
33 withdrawn in excess of the amount allowed under the industrial user's type 1
34 nonirrigation grandfathered right, type 2 nonirrigation grandfathered right
35 or general industrial use permit issued under section 45-515. For the
36 purposes of this subsection, stored water does not include any water stored
37 at a storage facility located within the eastern protection zone south ~~or any~~
38 ~~water stored and recovered on an annual basis pursuant to section 45-851.01.~~

39 C. If there is a municipal and industrial replenishment obligation for
40 the western municipal and industrial protection zone for any year, as
41 calculated under section 45-2622, subsection B, any person who withdraws
42 underground water or stored water from within that protection zone during the
43 year for an industrial use within that protection zone in an amount that
44 exceeds a volume calculated by multiplying the number of industrial acres
45 associated with the industrial use by three and one-half acre-feet shall have

1 an individual replenishment obligation for that year in the amount of the
2 excess, except that if the industrial use was commenced prior to January 1,
3 2003, the replenishment obligation shall be limited to the volume of
4 groundwater withdrawn in excess of the amount allowed under the industrial
5 user's type 1 nonirrigation grandfathered right, type 2 nonirrigation
6 grandfathered right or general industrial use permit issued under section
7 45-515. For the purposes of this subsection, stored water does not include
8 any water stored at a storage facility located within the western municipal
9 and industrial protection zone ~~or any water stored and recovered on an annual~~
10 ~~basis pursuant to section 45-851.01.~~

11 D. A person who has an individual replenishment obligation under
12 subsection A, B or C of this section shall satisfy the obligation no later
13 than twelve months after the authority sends written notice of the obligation
14 to the person as provided in subsection E of this section. The person shall
15 satisfy the obligation by performing one of the following replenishment
16 activities in an amount equivalent to the replenishment obligation:

17 1. Pay the authority the actual or estimated cost of replenishing the
18 water under section 45-2623, subsection C as determined by the authority and
19 included in the notice described in subsection E of this section.

20 2. If approved by the authority, deliver water or long-term storage
21 credits to the authority in the amount of the replenishment obligation.

22 E. No later than December 31 of each year, the authority shall send
23 written notice to each person who has an individual replenishment obligation
24 for the preceding year. The notice shall be sent by first-class mail to the
25 person's mailing address on file with the department. The notice shall
26 specify the amount of the replenishment obligation, the authority's actual or
27 estimated cost of replenishing the water under section 45-2623, subsection C,
28 the date by which the person must satisfy the replenishment obligation and
29 the manner in which the person may satisfy the replenishment obligation.

30 F. If a person with an individual replenishment obligation fails to
31 satisfy the replenishment obligation by the date specified in the written
32 notice received from the authority, the person shall be subject to an
33 enforcement action by the department pursuant to article 6 of this chapter.

34 G. The director shall include written notice of the requirements of
35 this section in any groundwater withdrawal permit, nonirrigation
36 grandfathered right authorization to drill a nonexempt well under section
37 45-596 or recovery well permit issued in an eastern protection zone or the
38 western municipal and industrial protection zone after the effective date of
39 this section.

40 Sec. 13. Effective date; condition

41 The following are effective as prescribed in Laws 2005, chapter 143,
42 section 15:

43 1. Section 45-611, Arizona Revised Statutes, as amended by Laws 2005,
44 chapter 143, section 1 and this act.

- 1 2. Section 45-2423, Arizona Revised Statutes, as amended by Laws 2005,
2 chapter 143, section 4 and this act.
- 3 3. Section 45-2425, Arizona Revised Statutes, as amended by Laws 2005,
4 chapter 143, section 5 and chapter 332, section 1 and this act.
- 5 4. Sections 45-2611, 45-2622 and 45-2626, Arizona Revised Statutes, as
6 amended by this act.